

## **REMARKS**

### **Regarding the Office Action:**

Claims 15-28 are pending and under current examination. In the Office Action, the Examiner took the following actions:

- (a) rejected claim 28 under 35 U.S.C. § 101 as being directed to non-statutory subject matter;
- (b) rejected claims 15-20 and 25-28 under 35 U.S.C. § 102(b) as being anticipated by International Pub. No. WO 02/35872 A1 ("Barberis")<sup>1</sup>; and
- (c) objected to claims 21-24 as being dependent upon a rejected base claim, but indicated that they would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

Applicants have amended claim 27 to correct a typographical error, and claim 28 in response to the 35 U.S.C. § 101 rejection, discussed further below.

### **Regarding the Objection to Claims 21-24:**

Applicants acknowledge with appreciation the Examiner's indication that claims 21-24 are drawn to allowable subject matter. For the reasons discussed in this paper, however, Applicants respectfully decline to amend the corresponding base claim to include the elements of one or all of claims 21-24.

### **Regarding the 35 U.S.C. § 101 Rejection of Claim 28:**

Applicants respectfully traverse the rejection of claim 28 under 35 U.S.C. § 101 as allegedly being "directed to non-statutory subject matter . . ." Office Action, p. 2. However, to advance prosecution, Applicants have amended claim 28, to recite that the "computer program product or group of computer program products . . . [are] encoded

---

<sup>1</sup> The Examiner cited International Pub. No. WO 02/35872 A1 to "Romoli et al.," though Applicants point out that WO 02/35872 A1 is actually to "Barberis et al." and it will be referred to as such herein.

onto a computer readable medium . . ." Applicants therefore deem this rejection overcome and respectfully request its withdrawal.

**Regarding the 35 U.S.C. § 102(b) Rejection of Claims 15-20 and 25-28**

Applicants respectfully request reconsideration and withdraw of the rejection of claims 15-20 and 25-28 under 35 U.S.C. § 102(b) as being anticipated by Barberis. In order to establish anticipation under 35 U.S.C. § 102, the Examiner must show that each and every element as set forth in the claim is found, either expressly or inherently described, in Barberis. See M.P.E.P. § 2131.

Barberis, however, does not disclose each and every element of Applicants' claimed invention. Specifically, Barberis does not disclose at least Applicants' claimed "identifying the pixels belonging to the service area pertaining to a pre-set cell according to a criterion for selection in succession based on the values of a sorting function ( $R_{m,n}$ ) which is a function of at least the quantity of traffic ( $T_{m,n}$ ) pertaining to the pixel being examined," as recited in independent claim 15.

Instead, Barberis discloses identifying the pixels belonging to the service area on the basis of the depth calculated—in other words, those requiring the lowest transmitted power. See Barberis, p. 13, ll. 9-14. While this identification may relate to "iteratively adding the various pixel's traffic contributions to the loading factor until a predetermined limit . . . is reached" (Barberis, p. 12, ll. 23-26), Barberis takes into account only the attenuation values associated with each pixel, moving from the lower to the higher values and not by considering the quantity of the traffic pertaining to each pixel being examined. This clearly does not constitute a disclosure of the claimed "identifying the pixels belonging to the service area pertaining to a pre-set cell according to a criterion for selection in succession based on the values of a sorting function ( $R_{m,n}$ ) which is a

function of at least the quantity of traffic ( $T_{m,n}$ ) pertaining to the pixel being examined," as recited in claim 15.

Since Barberis fails to disclose each and every element of Applicants' claim 15, Barberis does not anticipate Applicants' independent claim 15. Independent claim 15 should therefore be allowable. Claims 16-28 depend from independent claim 15 and should also be allowable at least by virtue of their dependence therefrom. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b), and allowance of claims 15-28.

### **Conclusion**

Applicants request reconsideration of the application and withdrawal of the objection and claim rejections. Pending claims 15-28 are in condition for allowance, and Applicants request a favorable action.

The Office Action contains a number of statements reflecting characterizations of the related claims. Regardless of whether any such statements are identified herein, Applicants decline to automatically subscribe to any such statements or characterizations.

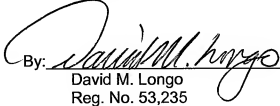
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: September 13, 2008

By:   
David M. Longo  
Reg. No. 53,235

/direct telephone: (571) 203-2763/